IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3534 of 2006

Pradip Shankarrao Walvekar & anr. Applicants
versus
The State of Maharashtra Respondent

Shri Shirish Gupte i/by Subodh Desai for applicants.

Shri S.S.Pednekar, APP for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 27th September 2006

PC :

1. Heard Shri Gupte-learned Senior Counsel appearing for applicants and the learned APP for the State.

2. With the assistance of learned counsel I have perused the FIR a copy of which is annexed at page 91 of the paper book so also the Trial Court's order. On perusal of the FIR it appears that the dispute is essentially civil in nature. The grievance of the complainant is that their father's property has been put in possession of the applicants through one Uttam Shinde who

himself had no right, title and interest therein. The applicants in turn are relying upon an agreement for sale with Uttam Shinde which was executed during the life time of the father. So also, they are relying upon decrees passed in favour of the father and against the family members by the Civil Court which are confirmed in appeal. These decrees are in the nature of a Perpetual Injunction against family members and issued on the basis that they have no right, title and interest in the property. All that the wife of the deceased was permitted, was an interest during her life time and that too of occupation of the premises.

3. Considering the materials which are relied upon by the applicants so also pendency of civil suits, this is not a case where custodial interrogation is necessary. Moreso, when all documents are filed in the Civil Court by both sides. Additionally, Shri Gupte upon taking instructions, makes a statement that originals of the Deed of Declaration, Isaar Pavati and Letter of Possession would be handed over to the Investigating Officer within a period of one week from today. The I.O. to keep the originals and permit the applicants to take certified true

copies thereof. The I.O. also to abide by all directions of the Trial Court for production of the originals.

4. In the light of the above, following order would meet the ends of justice.

5. ORDER :-

(i) In the event of the arrest of the applicant in connection with C.R.No.464 of 2006 registered with Deccan Police Station, Pune, the applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.25,000/- (Rs.Twenty five thousand only) with one or two local sureties in the like sum;

(ii) The bail is granted subject to condition that the applicant will attend the Deccan Police Station, Pune on every Friday between 05.00 to 07.00 p.m;

(iii) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him

from disclosing such facts to the Court or to the Police Officer/Investigating Agency. The applicant shall not tamper with the prosecution evidence.

(iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate Court for appropriate relief.

(vi) Application is disposed of in the above terms.

(S.C.DHARMADHIKARI, J.)